

November 9, 2017

National Freedom of Information Officer  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

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Dear National Freedom of Information Officer:

Under the Freedom of Information Act, I am requesting access to all documents and records containing information falling under the following:

All and any documents, records, electronic correspondence, or other communications produced, or possessed, by the Food Safety and Inspection Service that relate to or refer to the chemical compounds, residues, or other contaminants (including, but not limited to, veterinary/animal drugs, pesticides, hormones, and environmental contaminants) found in the broiler chicken products produced by the following companies:

- Tyson Foods, Inc.
- Pilgrim's Pride Corporation
- Sanderson Farms, Inc.
- Perdue Farms, Inc.
- Koch Foods, Inc.
- Wayne Farms LLC
- Mountaire Farms, Inc.
- House of Raeford Farms, Inc.
- Peco Foods, Inc.
- Keystone Foods LLC
- Foster Farms LLC
- George's, Inc.
- Amick Farms, Inc.
- Case Foods, Inc.
- Case Farms, LLC
- Fieldale Farms Corporation
- MarJac Holdings (including MarJac Poultry LC and MarJac Poultry, Inc.)
- O.K. Industries, Inc.
- Simmons Foods, Inc.

- GNP Company
- Claxton Poultry Farms, Inc.
- Gold'n Plump Poultry, Inc.

The information requested through these records should not only include which of the noted substances have been found in the broiler chickens produced by each of these companies, but should describe their quantities as well. The requested records should cover all information collected, dated, or transmitted between January 1, 2016 and the date this request is processed. Responsive documents should include, without limitation, all data collected during that time period under the National Residue Program for Meat, Poultry, and Egg Products relating to broiler chicken products produced by the above companies, and all documents relating to or referring to that data.

Violations occur under the National Residue Program when a chemical compound or contaminant is detected at a level in excess of an established tolerance or action level, or when a residue detected has no approved tolerance. This residue violation information is then entered in detail into the Residue Violation Information System, which is an FSIS/FDA interagency database. Since the EPA establishes tolerances for registered pesticides, records will likely exist pertaining to those specific compounds addressed by EPA tolerance levels, but this request is not limited to pesticide information.

If you deny all or any part of this request, please cite each specific exemption you believe justifies your refusal to release the information. In addition, Compassion Over Killing (COK) asks that all fees for the requested records be waived. The following information is provided to support the requester's request for a fee waiver.

In 1986, Congress revised the fee waiver criteria because it was disturbed by the restrictive interpretation the U.S. Department of Justice had given to the fee waiver provisions in its 1983 guidelines. Indeed, as one Congressman explained, the purpose of the amendments was "to make it easier for more requesters, *especially noncommercial requesters*, to qualify for fee waivers...." Thus, he explained, "the new fee waiver standard should be liberally construed in order to encourage full and complete disclosure of information in the possession of the government that does not require withholding for a public or private interest." Statement of Representative Glen English, 132 Cong. Rec. 22 (Oct. 6, 1987) (emphasis added).

To carry out the objective of liberalizing fee waivers, Congress adopted a multi-tiered fee waiver system. Under that system, documents are furnished completely without charge when the "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is not in the commercial interest of the requestor." 5 U.S.C. § 552 (a)(4)(A)(iii). If the organization is a "representative of the news the organization is charged no more than reasonable duplication fees. *Id.* § 552 (a)(4)(A)(ii)(II).

COK is a nonprofit 501(c)(3) organization representing over 40,000 members nationwide. Due to its size and proven ability to disseminate information to a large segment of the public, COK undeniably has the ability to contribute to the public's understanding of animal husbandry issues, including federal oversight of animal processing facilities. In addition, COK routinely distributes

information, press releases, reports, and copies of original documents to members of the media to generate articles. COK also routinely distributes, at no charge, its own information and information obtained from other sources on these issues. This includes the public, media, students, and scientists.

COK has also developed its own home page which can be accessed by the public through the World Wide Web (<http://www.cok.net>). In sum, COK is well-positioned to contribute significantly to the public understanding food safety and animal issues, once it receives and digests the requested information.

Aside from COK's obvious qualification for a fee waiver due to the significance of the material requested, COK alternatively qualifies for a fee waiver under the fee exemption provided for "representative[s] of the news media." The definition of "representative of the news media" has a well-accepted interpretation which stems from the District of Columbia Circuit:

[A] representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw material into a distinct work, and distributes that material to an audience.

*Nat'l Security Archives v. U.S. Dep't of Defense*, 880 F.2d 1381, 1388 (D.C. Cir. 1989).

In reaching this conclusion, the Court relied on strong statements by legislators in support of the amendments who argued that the terms be "broadly interpreted if the Act is to work as expected" and extend to "**any person or organization which regularly disseminates information to the public,**" even if it is a public interest group that "might also want the information for other purposes." See 132 Cong. Rec. 27190.

Under this definition and interpretation, COK unquestionably is a "representative of the news media." COK has extensive and well-exercised means to keep the public informed on the operations and activities of the United States government. COK does not merely obtain information and then contact members of the press to relate that information; rather, COK independently analyzes the information, drafts its own reports and articles on the issues, and disseminates the information broadly through its own publications to members and other interested persons. As a result of its longstanding interest in food safety, consumer education, and animal welfare issues, COK has developed a substantial level of expertise on the issues which commands public attention when it disseminates related information. Given its independent and extensive public dissemination of information pertaining to farm management issues, COK meets the criteria for a representative of the news media.

Therefore, in summary COK believes that this request satisfies the criteria for fee waiver or reduction for the following reasons:

- 1) COK is a non-profit, public interest group. The primary purpose for requesting these records is to obtain information about animal food product labeling requirements, not to commercially profit from the sale of this information.
- 2) The disclosure of the requested records would be to the primary benefit of the general public. COK has demonstrated its ability to disseminate to the general public the information it acquires.

This is achieved by state and nationally distributed newsletters, statewide membership mailings, information available electronically via the Internet, and extensive and reliable media contacts.

Therefore, COK asks that any search and duplication fees in this case be waived or reduced. It understands that the first two search hours and first 100 pages of documents are free. If the request will involve more than two search hours or more than 100 pages of documents and the waiver or reduction is denied, and fees will exceed thirty dollars (\$30.00), please notify me immediately by telephone (415-516-7213) before the request is processed so COK may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction.

If you have any questions regarding this request, please contact me at (415) 516-7213 or [ianta@cok.net](mailto:ianta@cok.net). I look forward to receiving your response within the twenty-day statutory time period. Thank you for your consideration of this request.

Sincerely,

Irina Anta

*Irina Anta*